

LAW OFFICE OF ALBERT J. RESCINIO, L.L.C.
1500 ALLAIRE AVENUE – SUITE 101
OCEAN TOWNSHIP, NEW JERSEY 07712
TELEPHONE: (732) 531-2005
TELEFAX: (732) 531-8009

August 27, 2021

Via ECMF:

Honorable Michael A. Shipp, U.S.D.J.
United States District Court
District of New Jersey
Clarkson Fisher Federal Building
& United States Courthouse
402 East State Street – Courtroom 5W
Trenton, New Jersey 08608

Via ECMF:

Sanmathi Dev, Esq.
Geoffrey N. Stark, Esq.
Capehart & Satchard, P.A.
8000 Midlantic Drive – Suite 300-S
Mount Laurel, New Jersey 08054
Telephone: (856) 234-6800
Attorneys for Defendants Lacey Township
Board of Education, Gregory Brandis and
Mark Angelo

Via ECMF:

Honorable Douglas Arpert, U.S.M.J.
United States District Court
District of New Jersey
Clarkson Fisher Federal Building
& United States Courthouse
402 East State Street – Courtroom 5W
Trenton, New Jersey 08608

Via ECMF:

James Birchmeier, Esq.
Birchmeier & Powell, L.L.C.
1891 State Highway 50
P.O. Box 582
Tuckahoe, New Jersey 08250
Telephone: (856) 848-7091
Attorney for Defendant Ocean County
Vocational Technical School

RE: *Neal DeBenedetto v. Lacey Township Board of Education, et al*
Civil Action No. 3:21-CV-08050-MAS-DEA

Dear Judges Shipp and Arpert and Counsel:

I represent the plaintiff in the above matter. On April 2, 2021 I filed a Complaint and Jury Demand on behalf of the plaintiff in this matter (**See ECMF Document 1**) and almost immediately thereafter filed a First Amended Complaint and Jury Demand. (**See ECMF Document 3**).

On May 24, 2021 defendants Lacey Township Board of Education, Gregory Brandis and Mark Angelo (hereinafter collectively “the Lacey defendants”) through their counsel (Sanmathi Dev, Esq. and Geoffrey N. Stark, Esq.) executed a formal waiver of service thereby making the due date for their filing of an Answer or other responsive pleading July 23, 2021. On July 30, 2021, at the request of counsel for the Lacey defendants, I consented to an additional 30 day extension to file an Answer or otherwise plead to the First Amended Complaint and Jury Demand. The Court formally granted this request for a 30 day extension on August 3, 2021. (**See ECMF Document 9**). On August 13, 2021 the Lacey defendants filed as their responsive pleading which was a *Rule 12(b)(6)* motion to dismiss which they made returnable before Judge Shipp on the Court’s September 7, 2021 motion day. (**See ECMF Document 10**).

During the same time period I caused defendant Ocean County Vocational Technical School to be served with a copy of a Summons the First Amended Complaint and Jury Demand which was then forwarded on to their attorney James Birchmeier, Esq. to whom I also agreed to consent to a 30 day extension to file an Answer or otherwise plead which was addressed in the same already referenced August 3, 2021 Order. In light of the initial September 7, 2021 return date and having not heard from Mr. Birchmeier as to whether he would be joining in with the Lacey defendant's *Rule* 12(b)(6) motion or filing his own motion, I reached out to all defendants' counsel via email. I thereafter received an email from Mr. Birchmeier specifically advising that he would be filing his own *Rule* 12(b)(6) motion on Monday August 30, 2021 (within the 30 day extension granted) which makes the earliest return date for his motion the Court's October 4, 2021 motion date, meaning that plaintiff's opposition would be due (based upon that return date) September 20, 2021 with any reply due September 27, 2021.

By copy of this letter I am formally requesting that the Court adjourn the return date of the Lacey defendant's *Rule* 12(b)(6) motion from September 7, 2021 to October 4, 2021 so that the two motions can be heard simultaneously on the Court's October 4, 2021 motion date, and so that the plaintiff's opposition to both motions will now be due September 20, 2021 based upon the October 4, 2021 return date. This way the plaintiff will not have to respond "piece meal" to the two motions separate motions but can do so in one submission at one time. In this regard I have already asked defendants' counsel to consent to same via a separate email and it is my understanding that there will be no opposition to this reasonable request.

Thank you very much.

Respectfully submitted,

s/Albert Rescinio

ALBERT J. RESCINIO, ESQ.

AJR:ms